PROF. NAUNIHAL SINGH (UTTAR PRADESH): Madam, I also associate myself with the sentiments expressed by my colleague.

यह पता नहीं चलता कि सड़क गड्ढे में है या गड्ढा सड़क में है।

THE VICE-CHAIRMAN (SHRIMATI RENUKA CHOWDHURY): Before we adjourn for lunch, there is a statement regarding the Government Business, to be made by Dr. U. Venkateswarlu.

ANNOUNCEMENT RE. GOVERNMENT BUSINESS FOR THE WEEK COMMENCING MONDAY, THE 2ND DECEMBER, 1996.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (DR. U. VENKATESWARLU): Madam, with your permission, I rise to announce that the Government Business during the week commencing Monday, the 2nd December, 1996 will consist of:—

1. Consideration and passing of:—

(a) The Indian Contract (Amendment) Bill, 1992.

(b) The Seaments Provident Fund (Amendment) Bill, 1995.

(c) The Apprentices (Amendment) Bill, 1995.

(d) The Companies (Amendment) Bill, 1996.

2. Discussion on the Resolution seeking approval of the Proclamation issued by the President on 17.10.96 under Article 356 of the Constitution in relation to the State of Uttar Pradesh.

3. Consideration and passing of the Coast Guard (Amendment) Bill, 1996.

THE VICE-CHAIRMAN (SHRIMATI RENUKA CHOWDHURY): The House is adjourned for lunch till 2.00 P.M.

The House then adjourned for lunch at fifty-eight minutes past twelve of the clock.

The House reassembled after lunch at eleven minutes past two of the clock,

The Vice-Chairman (Shrimati Kamla Sinha) in the Chair.

THE INDIAN CONTRACT (AMENDMENT) BILL, 1992

THE MINISTER OF STATE OF THE MINISTRY OF LAW AND JUSTICE (SHRI RAMAKANT D. KHALAP): Madam. I beg to move:

"That the Bill further to amend the Indian Contral Act, 1872, be taken into consideration."

Madam, this Bill seeks to amend Section 28 of the Indian Contract Act. 1872 which provides that every agreement by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract by the usual legal proceedings in the ordinary tribunal and which limits the lime within which he may thus enforce his right, is void to that extent. In fact, in Section 28. it is stated in the form of two propositions: (i) Parties to an agreement are not allowed to substitute their own periods of limitation in place of the period laid down under the general law of limitation, (ii) Parties to an agreement are allowed to substitute their own prescription, that is to say, they arc free to provide that if a party does not sue within a specified period, then the rights accrutng under the contract shall be forfeited or extinguished or the party shall be discharged from all liability under the contract. In other words, the clause limiting the time for enforcing a remedy is prohibited. But the clause limiting the duration up to which the rights remain alive and extinguishing this right till the end of such period is permissible. Thus, a distinction is assumed to exist between the remedy and the right and that distinction is the basis of the present position of law under Section 28 under which a clause barring a remedy is void. In every case a subtle distinction has to be applied as to whether a clause merely bars the remedy or extinguishes the right. The decision hangs on a fine distinction that is not easy on application, creating uncertainty in the minds of the party by conflict of approach in actual case in courts. This approach may be sound in theory. But in practice it causes serious hardship and might be even abused so as to defeat the cause of economic justice. The Law commission of

India in its 97th report recommended for an amendment to Section 28 of the India Contract Act, 1872. The report of the Law Commission has been studied and it is felt that the present legal position envisaged under Section 28 cannot bedefended as a matter of justice, logic and convenience. In view of this, it is proposed to amend Section 28 of the Indian Contract Act, 1872 so as to render invalid such contractual clauses in an agreement which purport to extinguish the rights of a party on the expiry of a specified term or which discharge the party from any liability under the contract on such expiry. As such I commend that this Bill be taken into consideration.

The question was proposed.

RE: CLOSURE OF INDUSTRIES IN DELHI AS A RESULT OF DIRECTIONS OF THE SUPREME COURT.

SHRI NILOTPAL BASU (West Bengal): Madam, a small submission is there.

THE VICE-CHAIRMAN (SHRIMATI KAMLA SINHA): Let him finish.

SHRI NILOTPAL BASU: Madam, just one minute's submission.

THE VICE-CHAIRMAN (SHRIMATI KAMLA SINHA): One minute's submission? Kindly take your seat. He wants to seek a clarification.

SHRI NILOTPAL BASU: Madam, in the morning at the beginning of the Zero Hour we had mentioned about the Supreme Court judgement and the adverse effect on some of the industries in Delhi. At that time the Minister had subsequently come and told us that he was not having any information about the developments in the Supreme Court. So now it appears that he has some information. So it will be in the fitness of things if he passes on the information available to him to the House.

SHRI GURUDAS DAS GUPTA (West Bengal): We are interested because a large number of workers have been thrown out of their jobs.

SHRI NILOTPAL BASU : The date for enforcement of the Supreme Court order is 30th November.

THE VICE-CHAIRMAN (SHRIMATI KAMLA SINHA): Okay, after the Minister's information we are not going to discuss the matter. Then, Mr. Kovind will speak, Mr. Minister.

THE MINISTER OF WELFARE (SHRI BALWANT SINGH RAMOOWALIA): Hon. Vice-Chairperson, I was directed by the Chaii yesterday that I should report to the hon. augusl House as soon as I get any information from the Supreme Court regarding the hon. Supreme Court's previous order of relocation of industries from Delhi to outside, in the adjoining areas of Delhi. Now, Madam, I have to report to the hon. House that an application for directions on behalf of the Union of India by the under-signed, has been moved today before a bench consisting of hon. Justice Kuldip Singh and hon. Justice B.C. Hansaria. The learned Additional Solicitor-General, Shri Altaf Ahmed, explained the effect of closure without relocating 168 industries on 13th November, 1996 as per the order of the hon. Court in case No. 22/4677 of 1985. He alsc submitted that a large number of the said industries, instead of taking steps and making *bona fide* efforts to relocate, have intimated their intentions to close down the said industries. Shri M.C. Mehta, the Petitioner in person, Shri Dadachanji counsel for some industries and Shri Sanjay Prakash for the trade unions, were heard in the matter. After hearing the parties at length. Their Lordships were pleased to take the petition on Board and issuec notice to all parties and listed the matter for 4th December 1996. Their Lordships were alsc pleased to direct to effect *dasti* also; *dasti* ir addition to the nornal service. We have therefore, made a request for taking immediate steps for effecting *dasti* on all parties today itself. Madam, Government has already taker steps, we are rushing to all these 168 employees as per the directions of the hon. Supreme Court, We are hopeful that the industrialists, instead of..... *{Interruptions)....*

SHRI JIBON ROY: What will be the status of the industries tomorrow?

THE VICE-CHAIRMAN (SHRIMATI KAMLA SINHA): I am not going to allow any discussion on this now.

SHRI JIBON ROY: They are closed now.